

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF PUERTO RICO**

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4 **IDEARTE, INC,**

5 **Plaintiff,**

6 **v.**

7 **PROVEER SIGN & GRAPHICS, et al.,**

8 **Defendants.**

Civil No. 11-1546 (GAG)

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11 **OPINION AND ORDER**

12 Defendant's Motion to Dismiss for lack of jurisdiction (Docket No. 24) is **DENIED** and in
13 the interest of justice, this case is hereby **TRANSFERRED** to the United States District Court for
14 the Southern District of Florida as per 28 U.S.C. § 1406. This court notes that Florida, unlike this
15 jurisdiction, has personal jurisdiction over defendant. The complaint here does not arise from
16 defendant's activities in Puerto Rico. Plaintiff agreed to purchase the equipment at issue while
17 attending a trade show in Miami. The same was delivered to Florida to plaintiff who made
18 arrangements for shipping it to Puerto Rico. This does not constitute purposeful availment of the
19 Puerto Rico forum by defendant. More so, defendant does not do any business, market itself nor
20 advertise in Puerto Rico.

21 Plaintiff, in the complaint, alleges a breach of warranty and seeks contractual rescission and
22 damages. Given that the sale and negotiations, as well as delivery took place in Florida, the breach
23 of the sales agreement (i.e. faulty equipment) likewise does not arise from any activities of
24 defendant in Puerto Rico.

25 Plaintiff's only claim of a contract to Puerto Rico is that approximately two months
26 following the sale of the equipment, defendant sent a technician to Puerto Rico to install the printer
27 which plaintiff itself brought to Puerto Rico. Plaintiff does not dispute that following this, it never
28 requested defendant to send a technician for diagnosis and repair.

1 **Civil No. 11-1546 (GAG)**

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3 The above facts are not in dispute, as per the parties' pleading (Docket Nos. 24 & 29). Thus,
4 an evidentiary hearing is unnecessary.

5 **IV. Conclusion**

6 For the reasons set forth above, the court **DENIES** Defendant's motion to dismiss at Docket
7 No. 24. The case is **TRANSFERRED** to the Southern District of Florida as per 28 U.S.C. § 1406.

8 **SO ORDERED.**

9 In San Juan, Puerto Rico this 9th day of January, 2012.

10 *s/ Gustavo A. Gelpi*

11 GUSTAVO A. GELPI
12 United States District Judge
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